

A029449

State Water Resources Control Board

NOV 02 2012

In Reply Refer to:
MJM:A029449

Marble Mountain Ranch
c/o Ms. Barbara Brenner
Stoel Rives LLP
500 Capitol Mall, Suite 1600
Sacramento, CA 95814

Dear Ms. Brenner:

APPLICATION 29449 OF DOUGLAS COLE, ET AL., STANSHAW CREEK TRIBUTARY TO
KLAMATH RIVER IN SISKIYOU COUNTY

By letter dated March 30, 2012, State Water Resources Control Board (State Water Board), Division of Water Rights (Division) staff requested that Douglas Cole (Applicant) provide a plan within sixty days to supply information necessary to document compliance with Water Code section 1275, subdivision (b). This information is necessary in order to continue processing Application 29449.

By letter dated May 29, 2012, you requested additional time to gather information about the Applicant's claim of pre-1914 right. Division staff granted your request. In your letter, however, you indicated that it had become apparent that the Applicant holds a valid pre-1914 water right that would negate the need for Application 29449.

By letter dated October 1, 2012, you provided information regarding the Applicant's claim of pre-1914 right. In the letter, you state that the State Water Board has no authority to adjudicate a pre-1914 right and thus has no jurisdiction over the Applicant's pre-1914 claim of right.

Pre-1914 Claim and Statement Requirements

The Applicant filed Statement of Water Diversion and Use (Statement) No. 15022 with the Division on December 1, 1998. According to Division files, no Supplemental Statements have been filed pursuant to Water Code section 5104, subdivision (a). Consequently, Statement No. 15022 is inactive in the Division's records. In your October 1, 2012 letter, you indicate that the Applicant has made continuous use of water pursuant to their pre-1914 claim of right.

With limited exceptions, Water Code section 5101 requires that a Statement be filed for a diversion not covered by a permit or license. After an Initial Statement is filed, Water Code section 5104 requires Supplemental Statements to be filed at three-year intervals. Water Code section 5107, subdivision (c)(1) provides that the State Water Board may impose a civil liability of \$1,000, plus \$500 per day for each additional day on which the violation continues if the person fails to file a

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Statement within 30 days after the State Water Board has called the violation to the attention of that person. These penalties are in addition to any penalties that may be imposed if the diverter does not hold a valid right or diverts in excess of what is authorized under that right. This letter serves as your notice of the Statement requirement and potential penalty. You should immediately file a new Statement, or contact Mr. Bob Rinker to see if Statement No. 15022 can be reactivated so you can file online Supplemental Statements. Mr. Rinker can be reached at (916)-322-3143 or by email at rrinker@waterboards.ca.gov.

Request for Information

In the Division's March 30, 2012 letter, the Division threatened cancellation of Application 29449, pursuant to Water Code section 1276, if the requested information was not received within the time period specified. To date, the Division has not received the requested information. If the Division does not receive the requested information within 30 days of the date of this letter, Application 29449 will be cancelled.

Matt McCarthy is the staff person presently assigned to this matter, and he may be contacted at (916) 341-5310 or mmccarthy@waterboards.ca.gov. Written correspondence or inquiries should be addressed as follows: State Water Resources Control Board; Division of Water Rights; Attn: Matt McCarthy; P.O. Box 2000; Sacramento, CA 95812-2000.

Sincerely,



Phillip Crader, Manager
Permitting and Licensing Section
Division of Water Rights

cc: Marble Mountain Ranch
c/o Douglas Cole
92529 Highway 96
Somes Bar, CA 95568

ec: State Water Resources Control Board
Matthew McCarthy
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Marble Mountain Ranch
c/o Ms. Barbara Brenner

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ec: Department of Fish and Game
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National Marine Fisheries Service
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